

AUBURN MUNICIPAL CODE
TITLE 9. Planning and Zoning
CHAPTER 9. Tree Preservation Ordinance

Sec. 9-9.01. Purpose.

The City Council recognizes that native trees provide benefits to the community and finds it necessary to establish basic standards, measures, and compliance for the preservation and protection of native trees while at the same time recognizing the individual rights to develop private property. Benefits provided by trees include:

- (a) Enhancing visual and aesthetic qualities that attract visitors and businesses and serve as a source of community image and pride.
- (b) Energy conservation and energy costs reductions by providing shade and evaporative cooling.
- (c) Increasing real property values.
- (d) Reducing storm water runoff and the potential for soil erosion.
- (e) Reducing noise pollution.
- (f) Reducing local air pollution by absorbing carbon dioxide and ozone and by releasing oxygen.
- (g) Reducing wind speed and directing air flow.
- (h) Providing habitat for birds, small mammals, and other wildlife.

Sec. 9-9.02. Intent.

The provisions of this chapter are enacted to:

- (a) Promote the public health, safety and general welfare;
- (b) Maintain and enhance the natural scenic beauty of the City of Auburn;
- (c) Complement and strengthen zoning, subdivision and land use standards and regulations, while at the same time recognizing individual rights to develop private property,
- (d) Establish and maintain the optimum amount of tree cover on public and private lands to moderate climatic conditions, sustain long-term potential increase in property values, maintain original ecology, reduce soil erosion, and increase the oxygen output of the area needed to combat air pollution.
- (e) Maintain healthy native trees on public and private lands using the most current arboricultural practices.
- (f) Encourage quality project design and utilize design incentives to promote the conservation of native tree resources;
- (g) Authorize the Community Development Director, or his/her designee, to administer the Tree Ordinance; and
- (h) Implement the goals of the Conservation and Open Space Element of the City of Auburn's General Plan.

Sec. 9-9.03. Definitions.

For the purposes of this chapter, unless otherwise apparent from the context, certain words and phrases used in this chapter are defined as follows:

Administrative Tree Permit. "Administrative tree permit" shall mean a tree permit issued by the Director that is not associated with a separate discretionary entitlement.

Approving Authority. "Approving authority" shall mean any one of the following: City Council, Planning Commission, Director, or other body granted authority under the Auburn Municipal Code to act on subject entitlements.

Arborist. "Arborist" shall mean an individual certified as an arborist by the International Society of Arboriculture with a current and active ISA certification number, and having specialized knowledge, experience and training related to arboriculture, including, but not limited to, management practices for tree pruning and maintenance, construction impacts to trees, tree pests and diseases, and hazardous tree evaluations.

Best Management Practices (BMPs). "Best Management Practices (BMPs)" shall mean state of the art guidelines for the care and protection of trees as contained in the body of this ordinance.

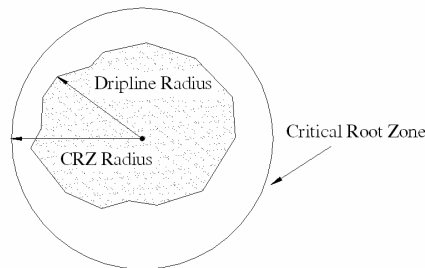
Boring (as compared to utility trenching). "Boring" shall mean drilling horizontally under the root system, to open an underground utility pathway, at a depth as to not cause harm or disruption to the root system of a tree or shrub.

Certification Letter. "Certification letter" shall mean a final letter written by an arborist or registered professional forester stating that work that was performed was observed by an arborist or

registered professional forester and complies with the conditions of the discretionary project, the tree report, the tree permit and the provisions of this ordinance.

City Arborist/Forester. "City arborist/forester" shall mean an arborist or registered professional forester contracted or employed by the City as a consultant, to review, evaluate, and prepare tree reports, permit requests, and development plans.

Critical Root Zone (CRZ). "Critical Root Zone (CRZ)" shall mean a circular area around a protected tree with a radius equal to a tree's largest dripline radius plus one foot (1').



Cut, Cutting. "Cut" or "cutting" shall mean the partial or complete removal or slicing of a limb, branch, or trunk with a saw or other sharp cutting tool of a woody tree or shrub of a diameter of 2" or greater.

Dead Tree. "Dead tree" shall mean a tree that does not contain any live tissue (i.e., green leaves or live limbs).

Deadwood. "Deadwood" shall mean limbs or branches that contain no green leaves or live limbs.

Deadwooding. "Deadwooding" shall mean the act of removing deadwood.

Department. "Department" shall mean the Community Development Department.

Developer. “Developer” shall mean any person or entity conducting any regulated activity within the critical root zone of a protected tree.

Development Activity. “Development activity” shall mean work associated with development including, but not limited to, roads, parking areas, utilities, trenching, grading, cut/fill slopes, retaining walls, drainage areas, existing/proposed structures, and other miscellaneous improvements.

Diameter at Breast Height (DBH). “Diameter at breast height (DBH)” shall mean the diameter of a tree trunk measured at four and one-half feet (4.5') above ground level along the center of the trunk axis. The diameter shall be calculated by use of the following formula:

DBH = circumference at breast height/3.14

Director. “Director” shall mean the Community Development Director or his/her designee.

Discretionary Projects. “Discretionary project” shall mean any non-ministerial development project that must be approved by either the City Council or Planning Commission. Discretionary projects include, but are not limited to, civic designs, tentative parcel maps, tentative subdivision maps, use permits, changes in zoning districts, variances or planned development permits.

Dripline Radius. “Dripline radius” shall mean a radius equal to the horizontal distance from the trunk of the tree to the end of the longest branch.

Dying/Unhealthy Tree. “Dying” or “unhealthy” tree shall mean any tree certified by an arborist or registered professional forester as being unhealthy or dying.

Encroachment. "Encroachment" shall mean any regulated activity conducted within the critical root zone of a protected tree.

Grading. "Grading" shall mean any removal or deposit of soil or earth material.

Hazardous Tree. "Hazardous tree" shall mean a tree that has been certified by an arborist or registered professional forester as being dead, or is so affected by a significant structural defect, damage or disease, or soil that may not provide adequate support, that falling or failure appears imminent, and poses a threat to life or property.

Irrigation. "Irrigation" shall mean the transfer of water to a site by artificial means.

Lot Sale Subdivision. "Lot sale subdivision" shall mean a subdivision in which the subdivider or developer sells the lots to other builders rather than building the homes.

Minor trimming. "Minor trimming" shall mean the cutting from protected trees of: (1) dead or diseased limbs or twigs; (2) parts which may result in damage to an existing dwelling; (3) parts which must be removed for safety or public utilities; or (4) the pruning of protected trees to promote health and growth. Trimming which substantially reduces the overall size or density of the tree, alters the existing symmetry or natural shape of the tree, or cuts live wood greater than 3" in diameter is not considered minor trimming.

Native Ground Surface Fabric. "Native ground surface fabric" shall mean the layer of topsoil, humus, and vegetation that comprises the native ground surface.

Native Oak Tree. "Native oak tree" shall mean any of the following trees (or hybrids thereof): Quercus lobata (Valley Oak or California White Oak), Quercus douglasii (Blue Oak), Quercus

wislizenii (Interior Live Oak), Quercus chrysolepis (Canyon Live Oak), Quercus kelloggii (California Black Oak), and Quercus x morehus (Oracle Oak).

Native Tree. “Native tree” shall mean any of the following trees (or hybrids thereof): Aesculus californica (California Buckeye), Arbutus menziesii (Madrone), Calocedrus decurrens (Incense Cedar), Cercis occidentalis (Western Redbud), Pinus ponderosa (Ponderosa Pine), Pseudotsuga menziesii (Douglas Fir), and any native oak tree.

Pre-construction Phase. “Pre-construction phase” shall mean the time between the approval of a discretionary project and the site planning meeting.

Protected Trees. “Protected trees” shall mean any native tree with a trunk that is a minimum of six (6) inches in diameter (i.e. 18.8” in circumference) at breast height (dbh), or, any native tree with multiple trunks that includes at least one trunk with a minimum diameter at breast height of six (6) inches or with trunks that have an aggregate diameter at breast height of at least twenty (20) inches.

Pruning and trimming standards. “Pruning and trimming standards” shall mean the most current pruning standards as established by the American National Standards Institute (ANSI).

Registered Professional Forester. “Registered professional forester” shall mean a person registered as a forester under the laws of the State of California.

Regulated Activity. “Regulated activity” shall mean any activity conducted within the critical root zone of a protected tree which would adversely impact the health of the tree, including but not limited to cutting, grading, excavating, adding fill soil, irrigating, trenching, boring, or compaction.

Removal. "Removal" shall mean the physical removal of a tree.

Routine Maintenance. "Routine maintenance" shall mean those actions taken for the continued health of a protected tree including but not limited to deadwooding, mowing grass close to a tree, and application of insecticides in conformance with standards established by the International Society of Arboriculture.

Site Plan. "Site plan" shall mean a scaled drawing of a specific plot of land that includes all of the pertinent information in regards to existing and proposed changes to that plot of land, and specifically shows the location of all protected trees.

Site Planning Meeting. "Site planning meeting" shall mean an on-site meeting with the developer and the developer's contractors, superintendent, architect, landscape architect, engineers, project arborist or registered professional forester, and City representatives used to delineate special procedures, limits of work, lines of authority and special conditions or procedures not covered by the provisions of this article.

Tree. "Tree" shall mean a woody perennial plant containing one or more trunks with a diameter of 6 inches or more or with an aggregate diameter of 20 inches or more.

Tree Mitigation. "Tree mitigation" shall mean a fee and/or a quantity of trees planted in exchange for the removal of one or more protected trees.

Tree Mitigation Fund. "Tree mitigation fund" shall mean a fund that will be used for tree-related activities including, but not limited to: the purchase of trees or tree care products, planting activities, preservation and care of trees, and education about trees in the City of Auburn. The fund may receive funding from tree

mitigation fees and other sources and shall be administered by the Director as appropriated by the City Council.

Tree Permit. "Tree permit" shall mean an authorization to conduct specific work or regulated activities within the critical root zone of a protected tree.

Tree Report. "Tree report" shall mean a report prepared by an arborist or registered professional forester containing specific information on location, condition, potential impacts of development, recommended actions and mitigation measures relating to one (1) or more trees on an individual lot or project site.

Utility Trenching Pathway Plan. "Utility trenching pathway plan" shall mean a plan approved by the Director setting forth the location of utility trenches in the vicinity of protected trees.

Vegetation Management Plan (VMP). "Vegetation Management Plan (VMP)" shall mean a plan for the assessment, implementation, and maintenance necessary to mitigate the hazards of potential wildfire for a specific project or geographical area. A VMP is used to address specific courses of action, responsible parties, resources, and priorities. Components of a VMP may include, but are not limited to modification of fuels, removal of fuels, fire safe landscaping, defensible space, shaded fuel breaks, fire breaks, and other such means to mitigate the hazards of wildfire. Components contain specific prescriptions with the intent of reducing the wildfire hazard.

Sec. 9-9.04. Regulated Activities and Exemptions.

- (a) **Permit Required.** Private property owners shall not conduct any regulated activity within the critical root zone of any protected tree; or harm, destroy, kill or remove any protected tree unless authorized by a tree permit or as provided in Sec. 9-9.04(c).
- (b) **Type of Permit Required.** The type of permit required is as follows:
 - (1) **Tree Permit.** A tree permit is required for any regulated activity within the critical root zone of a protected tree where the encroachment exceeds twenty (20) percent of the critical root zone, or where the regulated activity is related to a discretionary project. In addition, a tree permit is required for the removal of any protected tree, unless otherwise exempted by this chapter.
 - (2) **Administrative Tree Permit.** An administrative tree permit is required for any regulated activity on one or more protected trees, when the regulated activity is not associated with a discretionary project, does not include the removal of a protected tree, and the requested encroachment does not exceed twenty (20) percent of the critical root zone of any individual protected tree.
- (c) **Tree Permit Exemptions.** The following activities may be undertaken without a tree permit:
 - (1) Removal, pruning, or encroachment of a protected tree located on property that is: developed with a

single-family dwelling that has been granted occupancy, located within a single-family residential zone, and is less than one acre in size.

- (2) Removal, pruning, or encroachment of a protected tree located on property that is: undeveloped, located within a single-family residential zone, and is less than one acre in size as of the date of adoption of this ordinance.
- (3) The removal, pruning, or encroachment into the critical root zone of a protected tree located on property that is: developed with a single-family dwelling that has been granted occupancy; located within a single-family residential zone; greater than one acre in size; and is associated with a project with an approved set of plans for a home addition, a second residential unit, installation of a pool or driveway, or construction of an accessory structure such as a detached garage or storage shed, or other similar improvement. This exemption does not apply to such improvements associated with a discretionary entitlement (e.g. lot split; use permit; variance).
- (4) The removal of no more than five (5) protected trees per calendar year on property that is developed with a single-family dwelling that has been granted occupancy, is located within a single-family residential zone, and is greater than one acre in size.

- (5) Removal of a protected tree certified by an arborist or registered professional forester as being dead or dying (i.e. with a rating of one (1) per the tree report submittal requirements below).
- (6) Removal of a protected tree certified by an arborist or registered professional forester to be in poor health or determined by the Director to be a risk or hazard.
- (7) Maintenance of under-canopy landscaping.
- (8) Minor trimming.
- (9) Activities that do not disturb the soil in the critical root zone or result in physical contact with the protected tree.
- (10) Trees damaged by thunderstorms, windstorms, floods, earthquakes, fires, or other natural disasters and determined to be dangerous by a peace officer, fire fighter, civil defense official, City code enforcement officer, or the Director.
- (11) Removal or pruning of a tree when determined to be necessary by Fire Department personnel actively engaged in fighting a fire.
- (12) Parking or operation of motor vehicles within the critical root zone on existing paved areas.
- (13) Placement or storage of equipment or construction material within the critical root zone on existing paved areas.
- (14) Activities performed by a public utility necessary to comply with safety regulations or to repair or avoid the interruption of services.

- (15) Vegetation management plans deemed necessary by the Fire Department.
- (16) The removal or pruning of a protected tree in order to comply with defensible space requirements as provided for by law.

Sec. 9-9.05. Permit application process.

- (a) Applications for tree permits for regulated activities associated with a discretionary project shall be filed with the Department concurrent with any associated land use permits and/or subdivision applications for the discretionary project.
- (b) Applications for tree permits not associated with discretionary projects shall be filed with the Department separately.
- (c) **Submittal Requirements.** All tree permit applications shall use the forms provided by the Department and shall include, but are not limited to, the following:
 - (1) **Application Form.** Application shall be made on a form supplied by the Director. The signature of the property owner is required on the application.
 - (2) **Justification Statement.** A written statement providing the justification for the tree permit.
 - (3) **Filing Fee.** Provide the required filing fee.
 - (4) **Site Plan Map.** A site plan map shall be provided which includes all information as required by the appropriate applications prepared and maintained by the Director. The Director may waive or modify the requirement for a site plan map if the application is for a dead or hazardous tree. A site map shall include the following:

- i) **Basic Information** – The site plan map shall accurately identify the following existing and proposed features:
 - (a) Property lines;
 - (b) Streets, access easements and/or public or private driveways and other paved areas;
 - (c) Buildings or structures;
 - (d) Setbacks of all buildings and structures from property lines;
 - (e) Parking and other paved areas;
 - (f) Land uses on parcel;
 - (g) Existing grades and proposed grading and construction, including utilities, if available.
 - (h) North arrow and scale.
- ii) **Tree Locations.** All trees at least 6" DBH that are located on the subject property, or whose critical root zone crosses onto the subject property, must be depicted on the site plan map. Identify those protected trees that are to be preserved and those that will be subject to regulated activity. Tree numbers (as noted in the tree report) shall be shown on both the site plan and grading plan.

The following information shall be provided for all protected trees located within 50' of any development activity:

 - (a) The exact location of the base of each tree, both horizontally and vertically, as determined by a professional engineer, a licensed land surveyor, an arborist, or a registered

professional forester. Individuals applying for non-discretionary projects may locate trees to the best of their abilities.

(b) The base elevation of each protected tree shall be shown on the grading plan.

(c) The critical root zone.

Applicants may request that the Director waive or modify the tree location requirements for project sites that have a high density of trees or other special circumstances.

iii) **Critical Root Zones.** The exact location of the critical root zone shall be accurately reflected. In certain cases, it may be necessary to physically stake the surveyed corner of building(s) or related improvements in the field in order to assess the potential impacts upon the trees.

iv) Other information determined to be necessary by the Director in order to evaluate the request.

(5) **Tree Report.** A tree report shall be provided that includes all protected trees located within 50' of any development activity, as well as other areas as determined by the Director. The information shall be used to evaluate tree conditions, identify measures to protect trees for preservation, and to evaluate areas in which to plant replacement trees. The contents of the tree report shall be detailed on a list prepared and maintained by the Director and may include, but is not limited to, the following information:

- i) Tree numbers (as tagged by the arborist or a registered professional forester in the field);
- ii) Botanical name of each tree by tree number;
- iii) Common name of each tree by tree number;
- iv) Location of each tree by tree number;
- v) Diameter at breast height (DBH) of each tree by tree number, identifying whether single or multi-trunked trees;
- vi) Critical root zone radius of each tree by tree number;
- vii) Condition of each tree by reference to tree number. The determination of a tree's condition shall be based upon the following:
 - (a) Rating System. The condition of each tree is to be considered when determining a tree's rating. Ratings are subjective and are dependent upon both the health and structure (per the International Society of Arboriculture (ISA)) of the tree according to the following categories:
 - 5 - Excellent (no problems)
 - 4 - Good (no apparent problems)
 - 3 - Fair (minor problems)
 - 2 - Poor (major problems)
 - 1 - Extremely Poor (dead, dying, and/or dangerous)
 - (b) Factors. At a minimum, the following factors shall be considered in light of a tree's life

expectancy under existing and planned conditions when determining a tree's rating:

- (1) The condition and environment of the tree's root crown;
- (2) The condition of the trunk, including decay, injury, callusing or presence of fungus sporophore;
- (3) The condition of the limbs, including strength of crotches, amount of dead wood, hollow areas, and whether there is excessive weight borne by them;
- (4) The condition and growth rate history of the twigs, including pest damage and diseases;
- (5) Leaf appearance, including abnormal size, color, and density as well as pest and disease damage;
- (6) The critical root zone environment, including evidence of grade changes and presence of water courses or ponding.

Using the factors noted above, together with the arborist's or the registered professional forester's best judgment, each tree shall be described using the above rating categories. It is important to rate the tree's structural condition separately from the tree's vigor condition (if they are different). Root crown, trunk and limb ratings relate most to structure, while twigs and foliage, including growth rate, relate most to vigor. The structure of the root

crown-trunk area is of primary importance and takes precedence over any other factor. This information should not be considered to be a formula but simply a guideline to help describe a tree's condition.

- viii) Anticipated impacts. Impacts associated with proposed development activities shall be identified in the report.
 - ix) Recommendations. Recommendations shall be provided for all trees.
 - (1) Tree-specific Recommendations. Specific recommendations shall be provided as possible for each tree. Based upon the conditions and findings, these recommendations should be made that logically follow the report conditions. For instance, if weak crotches are reported, cabling would be a logical recommendation to include in the report.
 - (2) General recommendations. General preservation measures shall be noted that can be applied to most or all trees being preserved on a project site.
- (6) **Mitigation Plan.** A mitigation plan shall be provided that identifies the mitigation proposed for the removal of protected trees. Mitigation plans shall include the following:

- i) A table indicating each protected tree to be removed by tree number, type (i.e. species), size (DBH), condition, and total DBH inches.
- ii) The proposed means for mitigating the removal of protected trees (consistent with the requirements of Section 9-9.08).

Sec. 9-9.06. Review and action.

(a) **Approval Authority.**

- (1) **Administrative Tree Permit.** The reviewing authority for an administrative tree permit shall be the Director.
- (2) **Tree Permit.** The reviewing authority for a tree permit shall be the Planning Commission.

(b) **Procedure.**

- (1) **Administrative Tree Permit.** Administrative tree permits shall be issued by the Director. Administrative tree permits that include criteria exceptions under Section 9-9.06(d)) shall require approval of an administrative permit consistent with the provisions of Sections 9-4.1801 and 9-4.1801.5.
- (2) **Tree Permit.** The Planning Commission shall hold at least one public hearing on any tree permit. At least ten (10) days prior to the first public hearing, the commission shall give notice of such hearing as set forth in Section 9-4.1601.

(c) **Application Evaluation Guidelines.** The approving authority shall review and approve, conditionally approve, or deny applications in accordance with the provisions of this chapter.

It is the intent of this chapter that the review of tree permit applications take into account those factors identified below. While a request must not meet all, or any specific number, of the guidelines noted below, these factors should be used as the basis to support or deny a request.

- (1) The gross floor area of any proposed structures in relation to the size of the site and the amount of area on the parcel that does not require the removal of protected trees;
- (2) Design features of any proposed structures, as compared to other structures in the same vicinity that have or had protected trees on the parcel;
- (3) Topographic constraints, lot configuration, and other existing/proposed physical limitations (e.g. sidewalks; existing structures).
- (4) The health and structural condition of the protected trees;
- (5) Whether the encroachment is likely to result in the decline of the protected tree;
- (6) Whether the encroachment is likely to create a risk to persons or property;
- (7) The approximate age of the protected tree compared with the average life span for that species;
- (8) Whether removal of the protected tree would encourage healthier, more vigorous growth of younger similar trees in the area;
- (9) The number of existing protected trees in the area;
- (10) The number of healthy protected trees that a given parcel of land will support with and without the proposed development;

- (11) The effect of removal on soil stability/erosion, particularly near watercourses or on steep slopes;
 - (12) The potential for the protected tree to be a public nuisance or interfere with utility service, as well as its proximity to existing structures;
 - (13) Present and future shade potential with regard to solar heating and cooling and other climatic conditions;
 - (14) Whether there are any alternatives that would allow for the preservation of the protected tree (e.g. stem-wall foundation or post and beam foundation vs. slab foundation);
 - (15) Accepted tree management practices to ensure long-term survival of the tree;
 - (16) Whether the tree exhibits one of the following attributes:
 - (1) historical value;
 - (2) excellent health rating;
 - (3) outstanding habitat value;
 - (4) unusual species; or
 - (5) superior beauty;
 - (17) Whether other discretionary entitlements are contemplated within one year;
 - (18) The need for, or requirements of, a vegetation management;
 - (19) Any other information which may impact the health, safety or general welfare of the public.
- (d) **Evaluation Criteria Exceptions.** It is the intent of this ordinance that project design take into consideration the status of protected trees. The City acknowledges that there may be circumstances whereby the strict application of the City's development standards may limit a developer's ability to provide tree protection (e.g. setback requirements might

dictate that a tree needs to be removed). As a result, the approving authority may consider deviations to the City's development standards in conjunction with approval of a tree permit. Such deviation can only be approved where appropriate findings can be made and it can be clearly demonstrated that application of the alternative standard would reduce or eliminate impacts to protected trees. Examples of standards that could be subject to review by the approving authority include, but are not necessarily limited to:

- (1) Building setbacks
 - (2) Building height
 - (3) Parking requirements
 - (4) Road widths
 - (5) Sidewalk placement and design requirements
 - (6) Grading requirements
- (e) **Director's Evaluation.** The Director may, if he believes that the tree report is inaccurate or incomplete, or that damage may have occurred to a protected tree, require that the applicant hire a city arborist/forester to review and evaluate a project and/or tree report. The applicant shall be responsible for cost of the city arborist/forester. The cost of the city arborist/forester shall be determined by City Council resolution.
- (f) **Decision.** The approving authority's decision to approve or deny the application, including reasons for any denial, shall be provided to the applicant in writing. The approving authority's decision is final upon such filing and notification unless appealed.
- (g) **Conditions.** The approving authority may, at the time of approval, impose such conditions as are necessary to insure

compliance with this chapter, state or federal laws. Such conditions shall be reasonably related to the public needs created by the proposed project. Conditions to mitigate environmental impacts of the activity shall also be imposed by the approving authority.

- (h) **Mitigation.** The approving authority may, at the time of approval, impose requirements to mitigate for the removal of (or damage to) trees associated with a project. Mitigation shall be provided pursuant to Section 9-9.08.

- (i) **Approval.**

- (1) **Findings** – The approving authority shall make the following findings to approve a tree permit:

- (i) Approval of the tree permit will not be detrimental to the public health, safety, or welfare;
 - (ii) Approval of the tree permit is consistent with the provisions of this chapter; and
 - (iii) Measures have been incorporated in the project or the permit to mitigate impacts to remaining trees or to provide replacement for trees removed.

- (2) **Permit Time Limits.**

- (i) **Administrative Permit.** An administrative tree permit shall be valid for a period of one (1) year from the date of issuance. An extension of time may be granted by the Director for a period not to exceed one (1) year.
 - (ii) **Tree Permit.** Tree permits in conjunction with discretionary projects shall be valid for the life of the associated discretionary project.

- (3) The permit shall entitle the applicant to perform only those regulated activities described in the tree permit. Any changes to the project not in substantial compliance with the original approval shall require reapplication to the approving authority. The property owner shall be ultimately responsible for complying with the requirements of the tree permit.
- (4) **Modifications.** Any proposed changes in the project after approval shall be submitted to the Director. The Director shall review and approve, conditionally approve, or deny modifications to the originally approved permit provided that the change is substantially consistent with the original approval or if the change is more effective in preserving trees. If the Director determines that a request may not be consistent with the original approval or that the request may not be more effective in preserving trees, then the Director may forward the request to the Planning Commission for review.
- (5) **Subsequent Permits.** The tree permit shall be deemed satisfied after all tree permit conditions have been complied with and occupancy has been granted or a notice of completion filed for a project involving a tree permit. All subsequent work around trees where a prior tree permit was deemed satisfied shall be subject to a new tree permit.

(j) **Appeals.**

- (1) **Appeal of the Planning Commission's Determination.** In the event the applicant or any other interested party is not satisfied with the action of the

commission, that person may appeal such action to the council by using the procedure set forth in Section 9-4.1405.

(2) **Appeal of the Director's Determination.**

- (i) **Authorized.** In the event the applicant or any other interested party is not satisfied with the action of the Director, that person may appeal such action to the Planning Commission.
- (ii) **Filing.** An appeal of an administrative tree permit shall be filed in writing with the Community Development Department no later than ten (10) calendar days after the decision of the Director. The written appeal shall specify the particular action or decision, or portion thereof, which is appealed, and shall describe the reasons for the appeal, and may include suggested remedies. The fee for an appeal shall be paid with the filing of an appeal request. No appeal request shall be deemed valid unless the prescribed fee has been paid.
- (iii) **Hearings: Notices.** Upon the receipt of the notice of appeal, the Director shall set a date for a public hearing upon such appeal, giving notice of the public hearing pursuant to the provisions of Sec. 9-4.16.
- (iv) **Commission findings.** After the filing of the notice of appeal, the Commission may sustain, modify, reject, or overrule the decision of the Director and make such findings and decisions as are consistent with the requirements of State laws

and City laws. Following the Commission hearing, the Commission shall prepare a written decision which either grants or denies the appeal, and contains findings of fact and conclusions. The written decision, including a copy thereof, shall be provided to the applicant and shall be filed with the Department.

Sec. 9-9.07. Standard policies and procedures for approved work.

The purpose of this section is to define procedures necessary to protect the health of protected trees when work is conducted upon or around protected trees. The policies and procedures described in this section apply to all encroachments into the critical root zone of protected trees. All tree permits shall be deemed to incorporate the provisions of this chapter except as the tree permit may otherwise specifically provide.

- (a) **Canopy Pruning and Care.** All cutting, pruning, trimming, cabling, bracing, guying, and lightning protection systems shall conform to the most current standards of the American National Standards Institute (ANSI)."
- (b) **Chimney Locations.** A chimney for woodburning fireplaces or stoves shall not be located within the canopy of the tree or in such a location that sparks emitted from the chimney may damage a tree.

(c) **Cutting Roots:**

- (1) Minor roots less than two (2) inch in diameter may be cut, but damaged roots shall be traced back and cleanly cut behind any split, cracked or damaged area.
- (2) Major roots over two (2) inch in diameter may not be cut without approval of an arborist or registered professional forester. Depending upon the type of improvement being proposed, bridging techniques, alternatives recommended by an arborist or registered professional forester, or a new site design may need to be employed to protect the root and the tree.

(d) **Final Certification of Tree Work.** All of the tree preservation measures required by the conditions of the discretionary project approval, the tree report and the tree permit, as applicable, shall be completed and certified by the developer's arborist or registered professional forester prior to issuing an occupancy permit.

(e) **Grading:**

- (1) Every effort should be made to avoid cut and/or fill slopes within or in the vicinity of the critical root zone of any protected tree.
- (2) No grade changes are permitted which causes additional water to drain into the critical root zone of any protected tree.
- (3) No grade changes are permitted which results in the ground being lowered on all sides of a protected tree.

(f) **Information on Standard Policies and Procedures.**

The developer shall be responsible for informing all subcontractors and individuals who will be performing work around protected trees of the standard policies and procedures for working around trees as well as the conditions of approval for the project. The general contractor or applicant shall provide this information in writing to the subcontractors and employees.

(g) **Irrigation Systems.** An independent low-flow drip and/or micro-spray irrigation system may be used for establishing drought-tolerant plants within the critical root zone of a protected tree. Irrigation shall be gradually reduced and discontinued after a three (3) year period.

(h) **Native Ground Surface Fabric.** If any native ground surface fabric within the critical root zone must be removed for any reason, it shall be replaced within forty-eight (48) hours, or the area shall be treated as recommended by the arborist (or registered professional forester) and the Director. The Director shall consider necessary vegetation management measures as recommended by the Fire Department.

(i) **On-site Information.** The following information must be on-site while any construction activity is on going for a project requiring a tree permit:

- (1) Tree report and all future modifications;
- (2) Tree location map with a copy of the tree fencing plan;
- (3) Tree permit with conditions of approval;
- (4) Approved construction plans;

- (5) Approved planting and irrigation drawings.
- (6) A copy of the standard policies and procedures for approved work around protected trees.
- (j) **Plant Materials Under Native Oak Trees.** Planting live material under native oak trees is generally discouraged, and it will not be permitted within six (6) feet of the trunk of a native oak tree with a diameter at breast height (DBH) of eighteen (18) inches or less, or within ten (10) feet of the trunk of a native oak tree with a DBH of more than eighteen (18) inches. Only drought tolerant plants will be permitted within the critical root zone of native oak trees.
- (k) **Performance Guarantee.** A surety shall be posted and maintained to insure the preservation of protected trees during construction. The amount of the surety shall be equal to \$100 per inch of protected tree preserved on a project site, to a maximum of \$10,000. The deposit shall be posted in a form approved by the Director and the finance Department prior to any grading or movement of heavy equipment onto the site or issuance of any permits. Each violation of any tree permit condition regarding tree preservation shall result in forfeiture of a portion or the entirety of the deposit, at the discretion of the approving authority, provided that such determinations may be appealed as provided by Section 9-9.06.
- (l) **Preservation Devices.** If required, preservation devices such as aeration systems, oak tree wells, drains, special foundation systems, special paving and cabling systems

must be installed per approved plans and certified by the developer's arborist or registered professional forester.

(m) **Protective Fencing:**

- (1) **Type of fencing.** A minimum four (4') foot high chain link fence, plastic mesh fence, or substitute fence approved by the Director, shall be installed at the outermost edge of the critical root zone of each protected tree or group of protected trees. The developer may submit a request in writing to the Director to modify or waive the fencing requirement. Said request shall include a letter detailing the nature of the request and any plans necessary to clearly illustrate proposed changes to fencing plans.
- (2) **Fence installation.** Required fencing shall be installed in accordance with the approved fencing plan prior to the issuance of any grading or construction permits. The required fencing shall be inspected by the Department and/or the Engineering Division.
- (3) **"Signing.** A minimum of one sign shall be installed on the fence around each individual protected tree. Signs placed on fencing around a grove of Protected Trees shall be placed at approximately fifty foot (50') intervals. The size of each sign must be a minimum of eight and one half inches (8.5") by eleven inches (11") and must contain the following language:

"DO NOT REMOVE SIGN OR FENCE
WITHOUT APPROVAL FROM THE
COMMUNITY DEVELOPMENT DEPARTMENT
CALL (530) 823-4211 FOR INFORMATION"

- (4) **Fence removal.** Once approval has been obtained, protective fencing shall remain in place throughout the entire construction period and shall not be removed without obtaining written authorization from the Community Development Department.
- (n) **Retaining Walls and Root Protection.** Where a tree permit has been approved for construction of any retaining wall within the critical root zone of a protected tree, the developer will be required to provide for immediate protection of exposed roots from moisture loss during the time prior to completion of the wall. The retaining wall shall be constructed within seventy-two (72) hours after completion of grading. Additional measures may be required to minimize moisture loss as directed by an arborist (or registered professional forester), including but not limited to, mulching, placement of jute netting, and irrigation of the tree.
- (o) **Trenching and Boring Procedures.** In order to minimize or avoid injury to the root system, trenching and boring within the critical root zone of a protected tree, when permitted, may only be conducted with hand tools, air spades, or other acceptable measures (as recommended by an arborist or registered professional forester and approved by the Director). Said work shall

be conducted under the supervision of an on-site arborist or registered professional forester.

- (p) **Utility Trenching Pathway Plan.** As a condition of the tree permit, the developer will be required to submit a utility trenching-pathway plan for approval following approval of the project improvement or civil plans.

(1) **Contents.** The trenching-pathway plan shall depict all of the following systems: storm drains, sewers, easements, water mains, area drains, and underground utilities. Except in lot sale subdivisions, the trenching-pathway plan must show all lateral lines serving buildings. To be completely effective, the trenching-pathway plan must include the surveyed locations of all protected trees on the project as well as an accurate plotting of the critical root zone of each protected tree.

(2) **Standards for plan.** The trenching-pathway plan should be developed considering the following general guidelines:

- (i) The trenching-pathway plan must be developed to avoid going into the critical root zone of any protected tree on its path from the street to the building.
- (ii) Where it is impossible to avoid encroachment, the design must minimize the extent of such encroachment. Encroachments and mitigation measures must be addressed in a supplemental tree report.

Sec. 9-9.08. Mitigation.

- (a) Mitigation shall be provided for all protected trees approved for removal in association with a tree permit. Mitigation shall be provided at a rate of one inch (1") of replacement for every two inches (2") of tree removal. The total replacement requirement shall be based on the combined DBH of the trunks of the tree(s) removed. Mitigation trees shall be provided with the intent to reflect the character of the site prior to development. Native trees are preferred trees for mitigation; however, site-appropriate non-native trees may be permitted for mitigation purposes.
- (b) **Mitigation Standards.** Mitigation shall be based on the rating value given to each of the trees to be removed as identified in the project's tree report. Based on the tree rating system, the mitigation requirements are as follows:
 - Tree Rating 1 – No mitigation required
 - Tree Rating 2 – 50% of removed inches
 - Tree Rating 3-4 – 100% of removed inches
 - Tree Rating 5 – 150% of removed inches
- (c) **Replacement Ratios.** Replacement credits shall be given as follows:
 - (1) One fifteen-gallon tree or three five-gallon trees shall be considered replacement for one inch (1").
 - (2) One twenty-four inch box tree shall be considered replacement for two inches (2").
 - (3) One thirty-six inch box tree shall be considered replacement for three inches (3").
 - (4) One forty-eight inch box tree shall be considered replacement for four inches (4").

(d) **Mitigation Alternatives.** Mitigation shall be provided by one of the following methods, or any combination thereof. The preferred alternative is on-site replacement.

(1) **Replacement trees.** Replacement trees may be planted on-site, or at an approved off-site location, where maintenance is provided to insure survival of the trees.

(2) **Relocation of Trees.** In certain cases, the City may consider the relocation of native trees from within a project area or to an off-site project area. Credit shall be given for relocation on the same basis as replacement. The guidelines and limitations for relocation are as follows:

(i) The tree(s) being recommended for relocation must be approved by the reviewing body whose decision will be based upon factors relating to health, type, size, time of year, spacing, and proposed location.

(ii) Tree relocation shall be conditioned to require a secured three-year replacement agreement for the tree(s). If at the end of three (3) years the tree is deemed by an arborist or registered professional forester to be in a substantially similar condition to that prior to the transplanting, the agreement will be terminated. If during the three (3) year period a tree dies or it has not attained a condition substantially similar to prior to the transplanting, it shall be mitigated as required by this section.

(3) **Revegetation Requirements.** The approving authority may require implementation of a revegetation plan. The revegetation plan shall propagate native trees from seeds

or seedlings using currently accepted methods. A revegetation program shall identify the source of the trees to be propagated, the location of the plots, and the methods to be used to insure success of the revegetation program. The guidelines for revegetation plans are as follows:

- (i) A maximum of twenty-five percent (25%) of the required mitigation can be provided via revegetation.
 - (ii) The developer shall enter into a written agreement with the City obligating the developer to comply with the requirements of the revegetation program.
 - (iii) A performance security or bond for one hundred and fifty percent (150%) of the cost of the revegetation plan shall be required to insure that the agreement is fulfilled.
 - (iv) A revegetation program shall not be considered complete until the trees to be propagated have reached one (1) inch in diameter or the approving authority approves a revised revegetation program that demonstrates the need for alternative success criteria and achieves mitigation on an inch-for-inch basis.
- (4) **Land Dedication.** Mitigation for the removal of protected trees may be in the form of preserving an existing and sustainable preserve of native trees. The value of the trees to be preserved shall be determined by the approving authority. The preservation area must be either dedicated to the City, placed in a conservation

easement, or some other method accepted by the approving authority to insure preservation of the woodland habitat.

- (5) **In-Lieu Mitigation Fee.** The approving authority may determine that the remedies described above are not feasible or desirable, and may require instead, payment of a cash contribution based upon the cost of purchasing, planting, irrigating, and successfully establishing the required number of native trees (e.g. fifteen (15) gallon native trees). The “per tree cost” shall be as established by City Council resolution. The cash contribution shall be deposited into the tree mitigation fund.

- (i) **Tree Mitigation Fund.** A tree mitigation fund shall be established by resolution for the deposit of mitigation fees and penalty assessments. The fund shall be utilized to propagate and protect trees. Uses of the fund include, but are not limited to, tree education, purchasing property to plant or protect trees, propagating trees from seed or container stock, relocating native trees, maintaining existing trees, public tree planting and revegetation projects for roadways, parks, and beautification projects. This fund shall be administered by the Director, as appropriated by the Council.

Sec. 9-9.09. Violations, enforcement, and penalties.

- (a) The Director shall be responsible for the enforcement of the provisions of this chapter.

- (b) The Director may require the preparation of a tree report to determine the extent of damage to native trees. The tree report shall be provided consistent with Sec 9-9.05(c)(5).
- (c) In addition to any other requirements of this chapter, any violation of this chapter shall be punishable as a misdemeanor.
- (d) Any person, firm, or corporation that does not apply for a tree permit prior to removal of protected trees, and where no security deposit has been posted, shall replace trees as required by Sec. 9-9.08 and shall pay a fine equal to the replacement value of the trees.
- (e) Except as provided in the article, if trees are removed without prior approval, the City Council may choose to deny or defer approval of any application for development of that property for a period of up to three (3) years.
- (f) **Suspension, revocation and restoration – Tree Permit.** In addition to any other penalties allowed by this code, the Director may, upon a finding that a violation of conditions has occurred, suspend any tree permit or permit for a discretionary project associated pending review and action by the commission or council. The Commission or Council may suspend or revoke any tree permit or permit for a discretionary project associated with a tree permit upon a finding that a violation of conditions of approval has occurred.
- (g) **Suspension, revocation and restoration – Administrative Tree Permit.** In addition to any other penalties allowed by this code, the Director may suspend or revoke an administrative tree permit upon finding that a violation of the conditions of approval has occurred.

- (h) **Restitution.** Protected trees within the City are valuable assets to the citizens of this community, and as a result, the death of or damage to of any of these trees warrants compensation to the public. Any person who removes, kills, or significantly damages any tree in violation of the terms of this chapter may be required by the Director to provide restitution to the City and may result in the forfeiture, either in part or in whole, of the performance guarantee required under Section 9-9.07. In addition to any other remedies, restitution shall be calculated at triple the rate provided for under Section 9-9.08. A restitution requirement may be appealed to the Council, within ten (10) days of imposition of restitution.
- (i) **Stop work orders.** Whenever any construction or work is being performed contrary to the provisions of this chapter or conditions of the appropriate discretionary project, the Director may issue a written notice to the responsible party to stop work on the project on which the violation has occurred or upon which the danger exists. The notice shall state the nature of the violation and the risk to the trees. No work shall be allowed until the violation has been rectified and approved by the Department.

Sec. 9-9.10. Environmental review.

Review by the approving authority is subject to the requirements of the California Environmental Quality Act (CEQA). The approving authority shall not approve an application prior to considering the applicable environmental document and complying

with the requirements of CEQA and any City procedures for the preparation and processing of environmental documents.

Sec. 9-9.11. Application fees.

The City Council may establish a fee for the processing of applications under the provisions of this chapter by resolution, which may be amended from time to time.

Sec. 9-9.12. Public Education and Outreach Program.

The purposes of this program are to involve and inform the public about the City's valuable tree resources and encourage the voluntary use of BMPs. The Director and community groups will work together to disseminate this information to the public, and provide all development permit applicants with a set of materials designed to insure their understanding of the ordinance requirements, process, BMPs, standard policies and procedures, locations of heritage trees and other information.